

**RESOLUTION AGREEMENT
UNIVERSITY OF NEBRASKA AT OMAHA
OFFICE FOR CIVIL RIGHTS DOCKET NUMBER 07142002**

The Board of Regents of the University of Nebraska, by and on behalf of the University of Nebraska at Omaha (University), Omaha, Nebraska, and the U.S. Department of Education (Department), Office for Civil Rights (OCR), enter into this Resolution Agreement (Agreement) to resolve the allegation against the University in OCR Docket Number 07142002, and to ensure compliance with Title IX of the Education Amendments of 1972, 20 United States Code (U.S.C.) § 1681, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 106. Before OCR completed its investigation, the University agreed to resolve the allegations pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to ensure compliance with Title IX and its implementing regulations, the University voluntarily agrees to take the actions set forth below.

I. GENERAL PROVISIONS

This Agreement resolves OCR Docket No. 07142002 and does not constitute an admission by the University of any violation of Title IX or any other law.

OCR agrees to discontinue its investigation of OCR Docket No. 07142002 based upon the University's commitment to take the actions specified in this Agreement which, when fully implemented, will resolve the allegations in OCR Docket No. 07142002.

In the event the University fails to implement any provision of this Agreement, OCR may resume its investigation of the complaint or take other appropriate measures within its authority to ensure compliance with Title IX.

The University understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the University understands that during the monitoring of this Agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX.

The University understands and acknowledges that OCR may initiate administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement or judicial

proceedings to enforce this Agreement, OCR shall give the University written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

II. RESOLUTION PROVISIONS

POLICIES AND PROCEDURES

1. The University will draft revisions to its policies and procedures related to sex-based discrimination and harassment prohibited by Title IX. The University will ensure that these policies and procedures provide for the prompt and equitable resolution of complaints alleging sex discrimination and harassment, use consistently defined terms and reporting options, and include, at a minimum, the following¹:
 - a) Notice to students and employees of the procedures, including where complaints may be filed, that is widely distributed, including publication on the University website homepage and all handbooks;
 - b) Application of the procedures to complaints alleging sex discrimination or harassment carried out by employees, other students, and third parties in violation of Title IX;
 - c) Adequate, reliable, and impartial investigation, including an equal opportunity to present witnesses and relevant evidence;
 - d) Designated and reasonably prompt timeframes for major stages of the complaint process, as well as a process for extending timelines;
 - e) Written notice to the parties of the outcome of the complaint;
 - f) An assurance that the institution will take steps to prevent recurrence of discrimination or harassment and to correct its discriminatory effects on the complainant and others, if appropriate;
 - g) Provision for steps to protect the complainant as necessary, including interim steps before the final outcome of the recipient's investigation with the agreement of the complainant (*e.g.*, no contact order; change academic or living situations as appropriate with minimum burden on the complainant; counseling; health and mental services; escort services; academic support; retaking a course or withdrawing without penalty; etc.);
 - h) The procedures must state that the preponderance of the evidence standard will be used for investigating allegations of sexual harassment or violence;²
 - i) A provision for policies and procedures to protect against retaliation;
 - j) If the procedures allow the parties access to information used at a hearing, the procedures must provide similar and timely access to both parties;

¹ The current University policies may already include many of these items. By listing all of these items, it is the intent of OCR to ensure that the listed items currently in the policies remain in the policies.

² The University may use the phrase "greater weight of the evidence" when publishing the standard of proof for investigating allegations of sexual misconduct. However, the standard of proof will be implemented by the University consistent with the common interpretation of the "preponderance of the evidence" standard.

- k) If the procedures allow the parties to have an advisor at a hearing, the procedures must provide an equal opportunity to both parties to have such an advisor present and apply equal restrictions to the ability of the advisor to speak or otherwise participate;
 - l) If the procedures allow for an appeal of the findings and/or remedy, the procedures must provide an equal opportunity to appeal for both parties;
 - m) An adequate definition of sex harassment, including sexual violence, with examples;
 - n) The procedures should not require the complainant to work out an issue directly with the accused; sexual assault complaints are not to be mediated even on a voluntary basis;
 - o) If the procedures include an informal administrative resolution process, the procedures should notify the parties of the right to end the administrative resolution process and begin a formal process at any time;
 - p) The procedures should notify the complainant of the right to proceed with a criminal investigation and a Title IX complaint simultaneously;
 - q) A method to maintain a record of any proceedings;
 - r) Training for those implementing complaint procedures under Title IX. This includes training in:
 - a. Handling of complaints of sex discrimination, including sexual harassment/violence
 - b. School's complaint procedures; and
 - c. Confidentiality requirements
 - s) Providing periodic updates to the parties as to the status of the investigation of sexual misconduct; A range of potential remedies and sanctions; and
 - t) A statement regarding confidentiality for the complainant/victim.
 - u) A statement that questioning about the complainant's sexual history with anyone other than the alleged perpetrator should not be permitted.
2. On or before October 1, 2014, the University will submit proposed revisions to OCR of its policies and procedures related to sex discrimination under Title IX.
 3. OCR shall review and provide its approval of such policies and procedures if the policies and procedures conform to this agreement. Such approval shall not be unreasonably withheld. If OCR does not approve the University's policies and procedures, OCR shall provide the University with suggested revisions to the policies and procedures, and the parties shall cooperate in good faith to make any further revisions necessary.
 4. After receiving approval of the revised policies and procedures, the University will adopt the revised policies and procedures within ninety (90) calendar days of approval from OCR.

NOTICE OF REVISED POLICIES AND PROCEDURES

5. After adoption of the revised policies and procedures, the University will provide all students and employees with written notice regarding the revised policies prohibiting sex discrimination under Title IX and the procedures for resolving Title IX sex discrimination complaints, as well as information on how to obtain a copy of the policies and complaint procedures. At a minimum, the University will make this notification through the University's website, electronic mail messages to employees and students, as well as by any other additional means of notification the University deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENT: Within 30 days from the adoption of the revised policies and procedures required above, the University will provide OCR with documentation showing how the University provided the written notice as required in item 4 above.

TRAINING FOR STAFF

6. Within ninety (90) days from the date the University receives OCR's approval of the revised policies, the University will provide Title IX training to its employees who will be directly involved in processing, investigating, and/or resolving complaints of sex discrimination under Title IX or who will otherwise assist in the coordination of the University's compliance with Title IX. This training will cover:
 - a. the University's new policies and complaint procedures for Title IX complaints required by Section II above;
 - b. sex discrimination and the University's responsibilities under Title IX to address allegations of sex-based harassment, whether or not the actions are potentially criminal in nature;
 - c. recognizing and appropriately responding to allegations and complaints pursuant to Title IX, including conducting interviews of victims of sexual assault and communicating in a fair, non-biased, and objective manner ;
 - d. how to conduct and document adequate, prompt, reliable, and impartial Title IX investigations, including the appropriate legal standard to apply in a Title IX investigation and how that standard differs from the standard in a criminal investigation;
 - e. how to notify complainants of the right to request that a criminal complaint be filed and/or seek a protection order;
 - f. what information regarding sex-based harassment allegations may be shared among University employees, including campus safety employees, and other law enforcement officials and with persons alleged to have engaged in sexual harassment;

- g. how to coordinate and cooperate with law enforcement during parallel criminal and Title IX proceedings; and
- h. best practices to address the link between alcohol and drug use and sex-based harassment, including, but not limited to:
 - i. how to address the challenges of investigating incidents involving alcohol or drug use; and
 - ii. how to encourage victims and witnesses of sex-based harassment to cooperate with investigations if they have concerns about possible conduct implications of their own alcohol and drug use.

REPORTING REQUIREMENT: Within thirty (30) days from the completion of the training, the University will provide OCR with documentation of the training provided to University staff identifying: a) the date, time and location of the training; b) a copy of the agenda and any materials provided to the individuals attending the training; c) the names, titles, and qualifications of the individual(s) who conducted the training; and d) the names and titles of each University administrator or employee who attended the training (a sign-in sheet with the attendees' names and titles is sufficient).

TRACKING OF COMPLAINTS

- 7. By January 31, 2015, the University will provide OCR with copies of all complaints of sexual harassment under Title IX, including sexual assault, along with copies of all investigative decisions or findings, for the first semester of the 2014-2015 school year.
- 8. By July 31, 2015 the University will provide OCR with copies of all complaints of sexual harassment under Title IX, including sexual assault, along with copies of all investigative decisions or findings, for the period for the second semester of the 2014-2015 school year.

INDIVIDUAL REMEDIES

- 9. By October 1, 2014, OCR will provide the University with the Complainant's current address and the University will send a letter to the Complainant advising her that she may request a review of the determination by the Assistant to the Chancellor for Equity, Access, and Diversity that no sexual harassment occurred, pursuant to the University's current complaint procedures, Issue Resolution and Complaint Procedures for Prohibited Discrimination, and be afforded the other rights provided by those

procedures. She may file the request for review within 30 days of the date of the letter required by Section II, ¶9.

REPORTING REQUIREMENT: By October 31, 2014, the University will provide OCR with documentation that it mailed the letter required by Section II, ¶9 to the Complainant.

_____/s/_____
Official
University of Nebraska - Omaha
Board of Regents of the University of Nebraska

August 6, 2014
Date